

Appl. No. 10/688,096
Response Dated December 12, 2006
Reply to Office Action of September 12, 2006

• • R E M A R K S / A R G U M E N T S • •

The Official Action of September 12, 2006 has been thoroughly studied. Accordingly, the changes presented herein for the application, considered together with the following remarks, are believed to be sufficient to place the application into condition for allowance.

By the present amendment, claim 4 has been changed to recite that the annular protrusion extending upward from the crotch region and terminating at a free distal end. Support for this limitation can be readily found in the drawings, particularly Figs. 3 and 4.

Also by the present amendment, claim 10 has been changed to depend from claim 9 so as to correct the antecedent basis problem not by the Examiner on Page 2 of the Official Action.

Entry of the changes to the claims is respectfully requested.

Claims 1-10 are pending in the application.

Claims 1, 2 and 5-7 stand rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 5,447,508 to Numano et al.

Claims 3 and 8-10 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Numano et al.

Claim 4 stands stand rejected under 35 U.S.C. §103(a) as being unpatentable over Numano et al. in view of European Patent Application No. EP 1 243 237 A2 to Mishima et al.

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For the reasons set forth below, it is submitted that all of the pending claims are allowable over the prior art of record and therefore, each of the outstanding rejections of the claims should properly be withdrawn.

Favorable reconsideration by the Examiner is earnestly solicited.

The Examiner has relied upon Numano et al. as describing:

...a disposable pants-type wearing articles comprising an elastically stretchable chassis (col. 3, lines 11-12), having a front waist region 5, a rear waist region 6, and a crotch region 7 extending therebetween. The chassis is composed of a first elastic segment L7 extending substantially along peripheral portions forming leg holes from a transversely middle zone of the crotch region 7 to lateral portions 15, 16, 17 and 18 of front and rear waist regions so that a transversely inner edge of the first elastic segment L7 has a shape that curves transversely outward from a longitudinal central portion to longitudinal opposite ends of the first elastic segment (see element L7, Figure 1). The second elastic segment L5, L6 defined by a remaining portion of the chassis except for the first elastic segment L7. Numano discloses the first elastic segment L7 has a stretch stress higher than that of the second elastic segment L5, L6 (col. 3, lines 25-31).

Applicants' independent claim 1 requires, in part:

...a first elastic segment extending substantially along peripheral portions forming leg-holes, from a transversely middle zone of said crotch region to lateral portions of said front and rear waist regions so that a transversely inner edge of said first elastic segment has a shape that curves transversely outward from a longitudinal central portion to longitudinal opposite ends of said first elastic segment...

The references to "a transversely middle zone of said crotch region" and "a longitudinal central portion" are particularly noted.

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The Examiner has relied upon elastic segments L7 of Numano as reading on applicants' claimed first elastic segments.

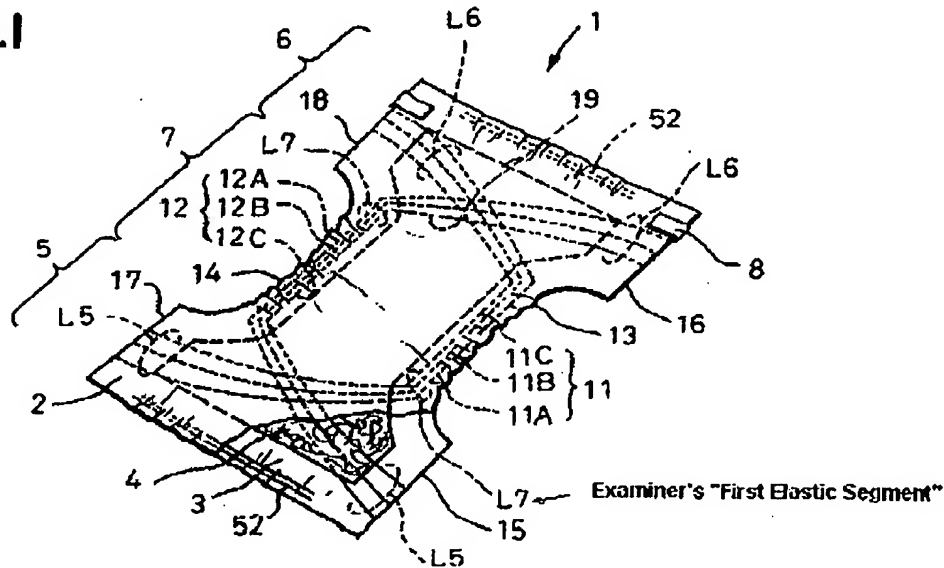
However, it is noted that elastic segments 17 of Numano are merely portions of elastic threads that extend linearly along "transversely opposite side edges 13, 14 of a crotch zone 7."

More specifically, Numano teaches:

Diaper 1 further includes elastic members 11, 12 extending in parallel with transversely opposite side edges 13, 14 of a crotch zone 7. (Column 2, lines 58-60)

Figure 1 of Numano is presented as follows:

FIG.1



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It is noted that both the opposite transversely side edges 13 and 14 and the elastic members 11 and 12 which are "parallel" thereto are linear or straight, but are not curved transversely outward as the Examiner states.

Further, elastic segments L7 do not have portions that are located or extend into the "longitudinal central portion" of the diaper inasmuch as Numano et al. teaches that the elastic segments L7 are provided along the transversely opposite side edges 13, 14 of the crotch region so as to be arranged around the resulting leg openings to provide a sealing effect in a known manner.

Such a functional requirement precludes Numano et al. from allowing longitudinal central portions of the elastic segments L7 from being located at "a transversely middle zone of said crotch region" as required by applicants' independent claim 1, and as would be necessary to develop an outward curved shape.

It is noted that most likely the tension on elastic segments L7 of Numano et al. would pull these elastic segments in a linear longitudinal direction, while the elastic segments L5 and L6 would pull the end portions of elastic segments L7 transversely inward. The result would most likely be completely opposite to applicants' claimed outward curved shape for the first elastic segment.

It thus is submitted that Numano et al. does not teach "a first elastic segment extending substantially along peripheral portions forming leg-holes, from a transversely middle zone of said crotch region to lateral portions of said front and rear waist regions so that a transversely inner edge of said first elastic segment has a shape that curves transversely outward from a longitudinal central portion to longitudinal opposite ends of said first elastic segment."

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Note, in Fig. 1 it does not even appear that the elastic segments L7 extend "to lateral portions of said front and rear waist regions." Rather it seems as elastic segments L7 are confined exclusively to the crotch region.

It is noted that elastic segments L6 and L7 curve transversely across the diaper of Numano et al. However, these elastic segments do not extend along the transversely opposite side edges 13, 14 of the crotch region which define the leg openings.

Moreover, the Examiner has interpreted elastic segments L5 and L6 collectively as reading on applicants' second elastic segment.

With respect to the Examiner relying upon Numano et al.'s elastic segments L5 and L6 collectively as reading on applicants' second elastic segment, it is noted that applicants' independent claim 1 requires, in part:

... a second elastic segment defined by a remaining portion of said chassis except for said first elastic segment...

The Examiner's interpretation of Numano et al.'s elastic segment L7 as reading on applicants' claimed first elastic segment of the chassis and Numano et al.'s segments L5 and L6 collectively as reading on applicants' claimed second elastic segment of the chassis, leaves a portion of the Examiner's "chassis" completely undefined.

For example, the central portion of the chassis of Numano et al. has neither elastic segment L7 nor elastic segments L5 and L6 extending or passing therethrough.

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Accordingly, this rather large portion of the chassis of Numano et al. remains excluded from the manner in which the Examiner has interpreted Numano et al. to read on applicants' claimed invention.

This is contrary to applicants' independent claim 1 which requires that the second elastic segment is defined by a remaining portion of said chassis except for said first elastic segment.

With regard to claim 10, this claim is directed to an embodiment of the invention in which a "pair of sheets are overlapped and joined together in said middle zone of said crotch region" as claimed. The manner in which these "elastic" sheets overlap in the central portion of the crotch region results in improvement of the fit of the feces receiving pad with the wearer's body as well as the fit of the diaper with the wearer's waistline.

Numano et al. does not teach such a structure in which the Examiner's "second elastic segment L5, L6" comprises a pair of elastic sheets that are overlapped and joined together in the middle zone of said crotch region" as claimed.

The Examiner has relied upon Mishima et al. as teaching a protrusion in an absorbent article. This reliance upon Mishima does not address or overcome the Examiner's reliance upon Numano et al. and Kumasaka discussed above.

Moreover, it is noted that Mishima et al. does not teach a protrusion that has a free distal end. In this regard, Mishima et al teach a "cylinder guide" that has an open end that is supported by an elastically stretchable member 20 as shown in Fig. 2.

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As presently amended applicants' dependent claim 4 requires a protrusion that has a free distal end.

Mishima et al. does not teach or suggest applicants' claimed protrusion.

Based upon the above distinctions between the prior art relied upon by the Examiner and the present invention, and the overall teachings of prior art, properly considered as a whole, it is respectfully submitted that the Examiner cannot rely upon the prior art as required under 35 U.S.C. §103 to establish a *prima facie* case of obviousness of applicants' claimed invention.

It is, therefore, submitted that any reliance upon prior art would be improper inasmuch as the prior art does not remotely anticipate, teach, suggest or render obvious the present invention.

It is submitted that the claims, as now amended, and the discussion contained herein clearly show that the claimed invention is novel and neither anticipated nor obvious over the teachings of the prior art and the outstanding rejection of the claims should hence be withdrawn.

Therefore, reconsideration and withdrawal of the outstanding rejection of the claims and an early allowance of the claims is believed to be in order.

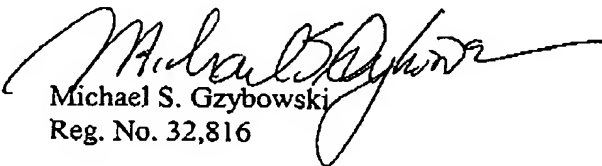
It is believed that the above represents a complete response to the Official Action and reconsideration is requested.

If upon consideration of the above, the Examiner should feel that there remains outstanding issues in the present application that could be resolved, the Examiner is invited to contact applicants' patent counsel at the telephone number given below to discuss such issues.

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To the extent necessary, a petition for an extension of time under 37 CFR §1.136 is hereby made. Please charge the fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account No. 12-2136 and please credit any excess fees to such deposit account.

Respectfully submitted,



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